JONATHAN H. ADLER

Case Western Reserve University School of Law
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LAW SCHOOL FACULTY POSITIONS

CASE WESTERN RESERVE UNIVERSITY, Cleveland, OH

Professor of Law (with tenure), July 2006 – Present
Associate Professor of Law, May 2004 – 2006
Assistant Professor of Law, July 2001 – 2004

Courses taught:

- Administrative Law
- Constitutional Law I
- Election Law Seminar
- Environmental Law
- Environmental Law Seminar
- International Environmental Law
- International Environmental Law Seminar
- Property

Committees and Service:

- Standing Committee on Experiential Learning (2011-Present)
- Appointments Committee (2009-Present)
- Provost's Advisory Committee for Promotion and Tenure (2008)
- Ad Hoc Committee on Bar Passage (2007-2008)
- Promotion & Tenure Committee (2006-2007, 2008-09)
- Judicial Clerkship Committee (2004-Present)
- Building Committee (2003-2006)
- Rankings Evaluation Committee (2003-04)
- Library & Technology Committee (2002-2006, Chair 2002-03)
- Upper-Level Writing Requirement Committee (2002-2003)
- RAW Program Evaluation Committee (2001-2003)

Director, Center for Business Law & Regulation, January 2007 – Present
Co-Director, Center for Business Law & Regulation, July – December 2006
Associate Director, Center for Business Law & Regulation, July 2003 – 2006

GEORGE MASON UNIVERSITY SCHOOL OF LAW, Arlington, Virginia

Visiting Associate Professor of Law, Fall 2005

Courses taught:

- Administrative Law
- Environmental Law

AWARDS AND HONORS

LAND USE AND ENVIRONMENT LAW REVIEW 2009-10 (compendium of ten best articles in land-use and environmental law), *Money or Nothing: The Adverse Environmental Consequences of Uncompensated Land-Use Controls*, 49 BOSTON COLLEGE LAW REVIEW 301 (2008)

Finalist, LAND USE AND ENVIRONMENT LAW REVIEW 2008-09 (compendium of ten best articles in land-use and environmental law), *When Is Two a Crowd: The Impact of Federal Action on State Environmental Regulation*, 31 HARVARD ENVIRONMENTAL LAW REVIEW 67 (2007).

2007 Distinguished Teacher Award, Case Western Reserve University School of Law Alumni Association

Honorable Mention, Most Cited Law Professors by Specialty 2000-07 (Environmental Law), Brian Leiter's Law School Rankings, November 2007.
(Only environmental law professor listed under age 40 at time of study.)

2004 Paul M. Bator Award in Recognition of Excellence in Legal Scholarship, Outstanding Commitment to Teaching and Law Students, and the Significant Public Impact of His Work, Federalist Society for Law & Public Policy Studies.

2001 Distinguished Young Alumnus Award, George Mason University School of Law.

Finalist, LAND USE AND ENVIRONMENT LAW REVIEW 2001-02 (compendium of ten best articles in land-use in environmental law), *Free and Green: A New Approach to Environmental Protection*, 24 HARVARD JOURNAL OF LAW & PUBLIC POLICY 653 (2001).

Finalist, LAND USE AND ENVIRONMENT LAW REVIEW 2001-02 (compendium of ten best articles in land-use in environmental law), *The Ducks Stop Here? The Environmental Challenge to Federalism*, 9 SUPREME COURT ECONOMIC REVIEW 205 (2001).

PUBLICATIONS

Books

LET FIFTY FLOWERS BLOOM: ENVIRONMENTAL FEDERALISM FOR THE 21ST CENTURY (manuscript in progress)

Editor, BUSINESS AND THE ROBERTS COURT (Oxford University Press, 2012, forthcoming)

Editor, REBUILDING THE ARK: NEW PERSPECTIVES ON ENDANGERED SPECIES ACT REFORM (2011)

Editor, ECOLOGY, LIBERTY & PROPERTY: A FREE MARKET ENVIRONMENTAL READER (2000).

Editor, THE COSTS OF KYOTO: CLIMATE CHANGE POLICY AND ITS IMPLICATIONS (1997).

ENVIRONMENTALISM AT THE CROSSROADS: GREEN ACTIVISM IN AMERICA (1995).

Law Review Articles

Eyes on a Climate Prize: Rewarding Energy Innovation to Achieve Climate Stabilization, 35 HARVARD ENVIRONMENTAL LAW REVIEW 1 (2011).

The Rest Is Silence: Chevron *Deference, Agency Jurisdiction, and Statutory Silences* (with Nathan Sales), 2009 UNIVERSITY OF ILLINOIS LAW REVIEW 101 (2009).

Money or Nothing: The Adverse Environmental Consequences of Uncompensated Land-Use Controls, 49 BOSTON COLLEGE LAW REVIEW 301 (2008).
(Selected for inclusion in LAND USE AND ENVIRONMENTAL LAW REVIEW 2009-10, compendium of ten best articles on land use or environmental law in 2008.)

When Is Two a Crowd: The Impact of Federal Action on State Environmental Regulation, 31 HARVARD ENVIRONMENTAL LAW REVIEW 67 (2007).
(Finalist, LAND USE AND ENVIRONMENTAL LAW REVIEW 2008-09, compendium of ten best articles on land use or environmental law in 2007.)

The Green Costs of Kelo: Economic Development Takings and Environmental Protection (with Ilya Somin), 84 WASHINGTON UNIVERSITY LAW REVIEW (2006).

Reckoning with Rapanos*: Revisiting "Waters of the United States" and the Limits of Federal Wetland Regulation*, 14 MISSOURI ENVIRONMENTAL LAW & POLICY REVIEW 1 (2006).

Judicial Federalism and the Future of Federal Environmental Regulation, 90 IOWA LAW REVIEW 377 (2005).

Conservation through Collusion: Antitrust as an Obstacle to Marine Resource Conservation, 61 WASHINGTON AND LEE LAW REVIEW 3 (2004).

Fables of the Cuyahoga: Reconstructing a History of Environmental Protection, 14 FORDHAM ENVIRONMENTAL LAW JOURNAL 89 (2002).

Let 50 Flowers Bloom: Transforming the States into Laboratories of Environmental Policy, 31 ENVIRONMENTAL LAW REPORTER 11284 (2001).

The Ducks Stop Here? The Environmental Challenge to Federalism, 9 SUPREME COURT ECONOMIC REVIEW 205 (2001).
(Finalist, LAND USE AND ENVIRONMENTAL LAW REVIEW, ten best articles on land use or environmental law in 2001; reprinted in ECONOMICS OF CONSTITUTIONAL LAW (R. Epstein ed. 2009)).

Free and Green: A New Approach to Environmental Protection, 24 HARVARD JOURNAL OF LAW & PUBLIC POLICY 653 (2001).
(Finalist, LAND USE AND ENVIRONMENTAL LAW REVIEW, ten best articles on land use or environmental law in 2001.)

More Sorry than Safe: Assessing the Precautionary Principle and the Proposed International Biosafety Protocol, 35 TEXAS INTERNATIONAL LAW JOURNAL 173 (2000).

Wetlands, Waterfowl, and the Menace of Mr. Wilson: Commerce Clause Jurisprudence and the Limits of Federal Wetlands Regulation, 29 ENVIRONMENTAL LAW 1 (1999).

The Green Aspects of Printz*: The Revival of Federalism at Its Implications for Environmental Law*, 6 GEORGE MASON LAW REVIEW 573 (1998).

Symposium Contributions

Cooperation, Commandeering or Crowding Out? Federal Intervention and State Choices in Health Care Policy, KANSAS JOURNAL OF LAW & PUBLIC POLICY (forthcoming)

Introduction – Symposium on Commercial Speech and Public Health, HEALTH MATRIX (forthcoming)

Heat Expands All Things: The Proliferation of Greenhouse Gas Regulation under the Obama Administration, 34 HARVARD JOURNAL OF LAW & PUBLIC POLICY 421 (2011).

Standing Still in the Roberts Court, 59 CASE WESTERN RESERVE LAW REVIEW 1061 (2009).

Taking Property Rights Seriously: The Case of Climate Change, SOCIAL PHILOSOPHY & POLICY, vol. 26, No. 2 (2009).

Business, the Environment, and the Roberts Court: A Preliminary Assessment, 49 SANTA CLARA LAW REVIEW 943 (2009).

Getting the Roberts Court Right: A Response to Chemerinsky, 54 WAYNE LAW REVIEW 983 (2008).

Water Marketing as an Adaptive Response to the Threat of Climate Change, 31 HAMLINE LAW REVIEW 730 (2008).

Introduction: Common Law Environmental Protection (w/ Andrew Morriss), 58 CASE WESTERN RESERVE LAW REVIEW 575 (2008).

Reforming Our Wasteful Hazardous Waste Policies, 17 NYU ENVIRONMENTAL LAW JOURNAL 724 (2008).

Hothouse Flowers: The Vices and Virtues of Climate Federalism, 17 TEMPLE POLITICAL AND CIVIL RIGHTS LAW REVIEW 443 (2008).

God, Gaia, The Taxpayer and the Lorax: Standing, Justiciability, and Separation of Powers after Massachusetts *and* Hein, 20 REGENT UNIVERSITY LAW REVIEW 175 (2008).

Massachusetts v. EPA *Heats Up Climate Policy No Less than Administrative Law: A Comment on Professors Watts and Wildermuth*, 102 NORTHWESTERN LAW REVIEW COLLOQUY 32 (2007).

Warming Up to Climate Change Litigation, 3 VA. L. REV. IN BRIEF 61 (2007).

Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection, 1 NYU JOURNAL OF LAW & LIBERTY 987 (2005).

Jurisdictional Mismatch in Environmental Federalism, 14 NYU ENVIRONMENTAL LAW JOURNAL 130 (2005).

Looking Ahead to the 2005-06 Term, CATO SUPREME COURT REVIEW 2004-05 (2005).

Is Morrison *Dead? Assessing a Supreme Drug (Law) Overdose*, 9 LEWIS & CLARK LAW REVIEW 751 (2005).

Frank Meyer: The Fusionist as Federalist, PUBLIUS Vo. 34 No. 4 (Fall 2004).

The Fable of Federal Environmental Regulation, 55 CASE WESTERN RESERVE LAW REVIEW 93 (2004).

Remarks on Regulating Genetically Modified Foods: Is Mandatory Labeling the Right Answer?, 10 RICH. JOURNAL OF LAW & TECHNOLOGY (2004).

Introduction: The Virtues and Vices of Skeptical Environmentalism (with Andrew Morriss), 53 CASE WESTERN LAW REVIEW 249 (2002).

Legal Obstacles to Private Ordering in Marine Fisheries, 8 ROGER WILLIAMS UNIVERSITY LAW REVIEW 9 (2002).

Stand or *Deliver: Citizen Suits, Standing, and Environmental Protection*, 12 DUKE ENVIRONMENTAL LAW & POLICY FORUM 39 (2001).

The Cartagena Protocol and Biological Diversity: Biosafe or Bio-Sorry? 12 GEORGETOWN INTERNATIONAL ENVIRONMENTAL LAW REVIEW 761 (2000).

Book Contributions

Labeling the Little Things, THE NANOTECHNOLOGY CHALLENGE (D. Dana ed., 2011, forthcoming).

The Leaky Ark: The Failure of Endangered Species Regulation on Private Land, REBUILDING THE ARK: NEW PERSPECTIVES ON ENDANGERED SPECIES ACT REFORM (J. Adler ed., 2011).

The Problems with Precaution: A Principle without Principle, CROP CHEMOPHOBIA (J. Entine ed., 2010).

The Adverse Environmental Consequences of Uncompensated Land-Use Controls, PROPERTY WRONGS: THE LAW AND ECONOMICS OF TAKINGS (B. Benson ed., 2010).

Perverse Incentives and the Endangered Species Act, ISSUES OF THE DAY: 100 COMMENTARIES ON CLIMATE, ENERGY, THE ENVIRONMENT, TRANSPORTATION, AND PUBLIC HEALTH POLICY (Ian W.H. Parry & Felicia Day eds., 2010).

Taking Property Rights Seriously, THE ENVIRONMENT: PHILOSOPHY AND POLICY (Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul, eds., Cambridge University Press, 2009).

Environment, THE ENCYCLOPEDIA OF LIBERTARIANISM (R. Hamowy ed., 2008).

Once More, With Feeling: Reaffirming the Limits of Clean Water Act Jurisdiction, THE SUPREME COURT AND THE CLEAN WATER ACT: FIVE ESSAYS ON *RAPANOS* (K. Wroth ed., Vermont Environmental Law Journal, 2007).

Marsh Madness, *in* INCENTIVES AND CONSERVATION: THE NEXT GENERATION OF ENVIRONMENTALISM (D. Benjamin ed., 2004).

Antitrust Barriers to Cooperative Fishery Management, *in* THE EVOLUTION OF PROPERTY RIGHTS IN FISHERIES (D. Leal ed., 2004).

Letting Fifty Flowers Bloom: Using Federalism to Spur Environmental Innovation, in THE JURISDYNAMICS OF ENVIRONMENTAL PROTECTION: CHANGE AND THE PRAGMATIC VOICE IN ENVIRONMENTAL LAW (J. Chen ed., 2004).

Do Conservation Conventions Conserve? in SUSTAINABLE DEVELOPMENT: PROMOTING PROGRESS OR PERPETUATING POVERTY? (J. Morris, ed. 2002).

The Precautionary Principle's Challenge to Progress, *in* GLOBAL WARMING AND OTHER ECO-MYTHS (R. Bailey, ed. 2002).

Clean Politics, Dirty Profits, *in* POLITICAL ENVIRONMENTALISM: GOING BEHIND THE GREEN CURTAIN (T. Anderson, ed., 2000).

Benchmarks (w/ Peter Cazamias), *in* THE TRUE STATE OF THE PLANET (R. Bailey, ed., 1995).

Clean Fuels, Dirty Air, *in* ENVIRONMENTAL POLITICS: PUBLIC COSTS, PRIVATE REWARDS (M. Greve and F. Smith, eds., 1992).

Monographs

A More Modest Court: The Ohio Supreme Court's Newfound Judicial Restraint (w/ Christina M. Adler) (Federalist Society for Law & Public Policy Studies, 2008).

Let Fifty Flowers Bloom: Transforming the State into Laboratories Environmental Policy (Federalism Project/American Enterprise Institute, 2001).

Greenhouse Policy without Regrets, Lead Author (Competitive Enterprise Institute, 2000).

Environmental Performance at the Bench: The EPA's Record in Federal Court POLICY STUDY NO. 269 (Reason Public Policy Institute, 2000).

Free Market Environmental Bibliography, 4th Edition, Editor (Competitive Enterprise Institute, 1996).

Property Rights, Regulatory Takings, and Environmental Protection (Competitive Enterprise Institute, 1996).

Time to Reopen the Clean Air Act: Clearing Away the Regulatory Smog (w/ K.H. Jones), POLICY ANALYSIS NO. 233 (Cato Institute, 1995).

Property Rights Reader, Editor (Competitive Enterprise Institute, 1995).

Taken to the Cleaners: A Case Study of the Overregulation of American Small Business POLICY ANALYSIS NO. 233 (Cato Institute, 1993).

Essays & Reviews

Will the REINS Act Rein in Federal Regulation? REGULATION (2011, forthcoming).

(Mostly) Realism on Global Warming (review of R. Pielke Jr., *The Climate Fix: What Scientists and Politicians Won't Tell You about Global Warming*), REGULATION, vol. 34, no. 1 (2011).

The Constitutionality of the Individual Mandate in the Affordable Care Act (with Erik Jensen), BAR JOURNAL OF THE CLEVELAND METROPOLITAN BAR ASSOCIATION, March 2011.

The EPA's Carbon Footprint, REASON (March 2010).

The Record of the Roberts Court in Environmental Cases: Pro-Business or Pro-Government? ENGAGE, Vol. 11, No. 1 (2010).

The Clean Water Land Grab, REGULATION, vol. 32, no. 4 (2009-2010).

Kindler, Gentler Cost-Benefit Analysis (review of R. Revesz & M. Livermore, *Retaking Rationality: How Cost Benefit Analysis Can Better Protect the Environment and Our Health*), REGULATION, vol. 32, no. 4 (2009-2010).

Conservation without Regulation: Property-Based Environmental Protection (transcript of talk at University of Cincinnati College of Law), ENGAGE, vol. 10, Issue 2 (2009).

Warming Up to Water Markets, REGULATION, vol. 31, no. 4 (2008).

The Green Bridge to Nowhere, (review of J. Speth, *The Bridge at the End of the World: Capitalism, the Environment, and Crossing from Crisis to Sustainability*), THE NEW ATLANTIS (Fall 2008).

An Animal to Save the World, THE NEW ATLANTIS (Summer 2008).

Backing Up Words with (Intelligent, Targeted) Action, THE NEW REPUBLIC ONLINE, January 30, 2008.

Anti-Conservation Incentives, REGULATION, vol. 30, no. 4 (2007).

Can the Golden State Catch a Greenhouse Waiver?, ENGAGE (2007).

Devaluing Science, review of R. Pielke, *The Honest Broker: Making Sense of Science in Policy and Politics*, THE NEW ATLANTIS (Summer 2007).

Don't Politicize Science (Unless You're on My Side), review of C. Mooney, *The Republican War on Science*, REGULATION (Spring 2007).

Standing in the Hot-Seat: Climate Change Litigation, ENGAGE, Vol. 8, No. 1 (2007).

Prosecuting Journalists Would be Unprecedented and Unwise, NATIONAL SECURITY LAW REPORT, Vol. 28, No. 3 (September 2006).

Review of D. Schoenbrod, *Saving the Environment from Washington*, INDEPENDENT REVIEW, Vol. 10, No. 4 (Summer 2006).

How to Protect Environmental Protections? 25 ENVIRONMENTAL LAW REPORTER 10413 (2005) (roundtable transcript).

A Vast-Right Wing Conspiracy: It's Neither Vast nor a Conspiracy. Discuss, LEGAL AFFAIRS (May-June 2005).

Conservation Cartels: How Competition Policy Conflicts with Environmental Protection, REGULATION Vol. 27, No. 4 (2004).

The Role of the Judiciary in Preserving Federalism, 1 GEORGETOWN JOURNAL OF LAW & PUBLIC POLICY, Symposium Issue 49 (2002).

(Review) *Free Market Environmentalism Revised Edition*, 22 CATO JOURNAL 182 (2002).

Judicial Federalism Not Anti-Environment, ENVIRONMENTAL FORUM, vol. 19, No. 4 (2002).

Waste & the Dormant Commerce Clause – A Reply (response to Richard Epstein), 3 GREEN BAG 2D 353 (2000).

Faux Market Environmentalism, REGULATION, Vol. 23, No. 1 (2000).

Swamp Rules: The End of Federal Wetlands Regulation? REGULATION, Vol. 22, No. 2 (1999).

There's No Justice in EPA's Environmental Justice Policy, 6 CORPORATE ENVIRONMENTAL STRATEGY 183 (1999).

A New Environmental Federalism, FORUM FOR APPLIED RESEARCH AND PUBLIC POLICY (Winter 1998).

Bean Counting for a Better Earth: Environmental Enforcement at the EPA, REGULATION, Vol. 21, No. 2 (1998).

Rent-Seeking Behind the Green Curtain, REGULATION, Vol. 19, No. 4 (1996).

Over 100 articles, reviews, and op-eds on environmental and regulatory policy have appeared in various magazines and newspapers, including (but not limited to) the following:

Magazines/Journals

The American Spectator
Chief Executive
Consumer's Research
The Environmental Forum
The Good Society
Issues in Science and Technology
Legal Times
Liberty
The Next Progressive
PERC Reports
Policy Review
The Public Interest
Reason
The Weekly Standard

Newspapers

Arizona Republic
Christian Science Monitor
Cleveland Plain Dealer
Detroit News
Hartford Courant
Indianapolis Star
Investor's Business Daily
Journal of Commerce
Los Angeles Times
Orange County Register
Oregonian
Philadelphia Inquirer
Phoenix Gazette
Richmond Times-Dispatch
San Diego Union-Tribune
St. Louis Post-Dispatch
Wall Street Journal
Wall Street Journal Europe
Washington Post
Washington Times

CONGRESSIONAL TESTIMONY

The REINS Act – Promoting Jobs and Expanding Freedom by Reducing Needless Regulations, Subcommittee on Courts, Commercial and Administrative Law, Committee on the Judiciary, U.S. House of Representatives, January 24, 2011

The Clean Water Restoration Act of 2007, Committee on Transportation and Infrastructure, U.S. House of Representatives, April 16, 2008.

Examining the Case for the California Waiver, Committee on Environment and Public Works, U.S. Senate, May 22, 2007.

The Scope of "Waters of the United States" after *Rapanos v. United States*, Subcommittee on Fisheries, Wildlife and Water, Committee on Environment and Public Works, U.S. Senate, August 1, 2006.

Gas Price Act of 2005, Committee on Environment and Public Works, U.S. Senate, October 18, 2005.

National Fish & Wildlife Foundation Establishment Act Amendments of 1997, Subcommittee on Fisheries, Conservation, Wildlife, and Oceans, U.S. House of Representatives, September 25, 1997.

The Right to Own Property, Committee on the Judiciary, U.S. Senate, October 18, 1995.

Private Property Rights and Environmental Laws, Committee on Environment and Public Works, U.S. Senate, July 12, 1995.

Flow Control and Interstate Transportation of Solid Waste, Subcommittee on Superfund, Waste Control, and Risk Assessment, U.S. Senate, March 1, 1995.

Private Property Rights, Subcommittee on the Constitution, U.S. House of Representatives, February 10, 1995.

PEER REVIEW

Have conducted academic peer review of manuscripts and proposals for the following journals and publishers.

- AEI Press
- Aspen Publishers
- Cambridge University Press
- ELECTION LAW JOURNAL
- ENVIRONMENTAL HISTORY
- GLOBAL ENVIRONMENTAL POLITICS

- JOURNAL OF AGRICULTURAL & ENVIRONMENTAL ETHICS
- Oxford University Press

CONFERENCES & SYMPOSIA

Director, "Business Law & Regulation in the Roberts Court," Center for Business Law & Regulation, Case Western Reserve University, Cleveland, Ohio, September 16-17, 2010.

Guest Editor, *Health Matrix* (Special issue on commercial speech and public health), Spring 2011.

Director, "Regulation by Litigation Roundtable," Center for Business Law & Regulation, Case Western Reserve University, Cleveland, Ohio, September 25, 2009. (Proceedings published as book review symposium in REGULATION GOVERNANCE (2011)).

Director, "Rebuilding the Ark: New Perspectives on Endangered Species Act Reform," American Enterprise Institute, September 15, 2009.

Director, "Civil Liberties in Wartime," Liberty Fund Colloquium, Cleveland, Ohio, June 26-29, 2008.

Co-editor (with Andrew Morriss), "Common Law Environmental Protection," paper-only symposium, CASE WESTERN RESERVE LAW REVIEW (2008)

Director, "Private Property, Government Takings, and Individual Liberty, Liberty Fund Colloquium, San Antonio, Texas, February 28-March 2, 2008.

Chair, ""Scheme Liability: Section 10(b), and *Stoneridge Investment Partners v. Scientific Atlanta*," co-sponsored by the Center for Business Law & Regulation and the Corporate Law Practice Group of the Federalist Society for Law & Public Policy Studies, Cleveland, Ohio, October 5, 2007.

Director, "Frank S. Meyer and the Fusion of Freedom and Tradition," Liberty Fund Colloquium, Miami, Florida, December 12-15, 2006

Conference Co-Chair (with Dean Reuter), "Eminent Domain, Urban Renewal & The Constitution," cosponsored by the Center for Business Law & Regulation and the Property Rights and Environmental Law Practice Group of the Federalist Society for Law & Public Policy Studies, Cleveland, Ohio, February 4, 2005.

Director, "Civil Liberties in Wartime," Liberty Fund Colloquium, Miami, Florida, January 13-16, 2005.

Co-editor (with Andrew Morriss), "The Virtues and Vices of Skeptical Environmentalism," paper-only symposium on Bjorn Lomborg's *The Skeptical Environmentalist*, 53 CASE WESTERN RESERVE LAW REVIEW (2002).

Director, "The Costs of Kyoto: Climate Change Policy and Its Implications," Competitive Enterprise Institute, Washington, D.C., July 15, 1997.

SELECT LECTURES & PRESENTATIONS

Panelist, "A New Wavelength? Carbon Tax, Cap & Trade, and Market Adaptation," Canada-U.S. Law Institute annual conference on "Energy Security and Climate Change: A Canada-U.S. Common Approach?" CWRU School of Law, April 15, 2011.

"Health Care Reform and the Future of Federalism," Federalist Society Birmingham Lawyers Chapter, Birmingham, AL, March 1, 2011.

Panelist, "Federalism and Interstate Competition," 30th Annual Federalist Society Student Symposium on "Capitalism, Markets, and the Constitution," University of Virginia, February 26, 2011.

"Cooperation, Commandeering, or Crowding Out? Federal Intervention and State Choices in Health Care Policy," *Kansas Journal of Law and Public Policy* symposium on "The Role of States in Federal Health Care Reform," University of Kansas School of Law, February 11, 2011.

"Alternatives to Cap and Trade," Federalist Society Student Chapter, Environmental Law Society, and *Harvard Environmental Law Review*, Harvard Law School, February 3, 2011.

Panelist, "The Judicial Vacancy Crisis," Federal Bar Association, Northern Ohio Chapter, November 18, 2010.

Panelist, *Regulating from Nowhere: Environmental Law & the Search for Objectivity* by Douglas Kysar, American Constitution Society, Washington, D.C., November 4, 2010.

"Is the Common Law the Free Market Solution to Pollution?" Workshop on "Tough Questions for Free-Market Environmentalism," Property & Environment Research Center, Bozeman, MT, July 20, 2010.

Panelist, "Environmental Protection in a Climate of Change," American Constitution Society 2010 Annual Convention, Washington, D.C., June 18, 2010.

Panelist, "The Global Warming Crisis: Property Law," AALS Mid-Year Meeting Workshop on Property, New York, NY, June 12, 2010.

"Environmental Law and the U.S. Supreme Court," Ohio State Bar Association's 25th Annual Ohio Environmental Law Seminar in Newark, OH, April 30, 2010

"The Cuyahoga, the Common Law & Environmental Protection," Judicial Symposium on the Expansion of Liability Under Public Nuisance, Searle Center Judicial Education Program, Northwestern University Law School, Chicago, IL, April 26, 2010.

"To Cap or Not to Cap," a debate with Yale law professor Douglas Kysar on federal regulation of greenhouse gases, Federalist Society Student Chapter, Yale Law School, New Haven, CT, April 8, 2010.

"Eyes on a Climate Prize: Rewarding Energy Innovation to Achieve Climate Stabilization," Workshop on "Rethinking the Foundations of Climate Change Law and Policy," University of Pennsylvania Law School, Philadelphia, PA, October 23, 2009.

"Public Lands & Public Choice," "Free Market Environmentalism and Institutions of Liberty," PERC and Liberty Fund Inc, Bozeman, MT, June 17, 2009.

"A Conversation on Climate Change Policy: A Look Ahead at 2009," with Michael Vandenbergh, Vanderbilt Climate Change Research Network & Nashville Lawyers Chapter of the Federalist Society for Law & Policy Studies, February 19, 2009.

"Standing Still in the Roberts Court," *Case Western Reserve Law Review* symposium on "Access to the Courts in the Roberts Era," Case Western Reserve University School of Law, January 30, 2009.

"The Roberts Courts and Business: A Look at the Environmental Cases," *Santa Clara Law Review* symposium on "Big Business and the Roberts Court," Santa Clara University School of Law, January 23, 2009.

"A More Modest Court: The Ohio Supreme Court's Newfound Judicial Restraint," Cleveland Area Civil Trial Attorneys, December 10, 2008.

"The Policy Implications of Reaction to Climate Change," National Lawyers Convention of the Federalist Society for Law & Public Policy Studies, November 20, 2008.

"Compelled Commercial Speech and the Consumer Right-to-Know," Penn State University Dickinson School of Law, State College, PA, September 19, 2008.

Comment, "Viewpoint Diversity and Media Consolidation: An Empirical Study," 3rd Annual Conference on Empirical Legal Studies, Cornell Law School, Ithaca, NY, September 13, 2008.

"Taking Property Rights Seriously: The Case of Climate Change," Social Philosophy and Policy Center/Liberty Fund conference, "Liberty and the Environment," Orlando, FL, June 20, 2008

"Federalism in the Roberts Court," Conference on Constitutional Law, 2008 AALS Mid-Year Meeting, Cleveland, Ohio, June 4, 2008.

"From Marshall to Scalia: The Role of the Courts in American History," Bill of Rights Institute, Wichita, Kansas, April 24, 2008.

"From Guns to Guantanamo: A Guide to Life in the Roberts Court Era," Akron Press Club, Akron, Ohio, April 14, 2008.

"Reforming Our Wasteful Hazardous Waste Policy," Breaking the Logjam: An Environmental Law for the 21st Century, NYU School of Law, March 29, 2008.

"God, Gaia, The Taxpayer, and The Lorax: Standing, Justiciability, and Separation of Powers after *Massachusetts* and *Hein*," Keynote Address, Regent Law Review Symposium on Justiciability After *Hein* and *Massachusetts*: Where is the Court Standing?, Virginia Beach, VA, Nov. 30, 2007

"Reforming Our Wasteful Hazardous Waste Policy," Environmental Governance Seminar, New York University School of Law (co-sponsored by New York Law School), New York, NY, Nov. 28, 2007.

"Water Markets as an Adaptive Response to the Threat of Climate Change," Nevada Water Resources Association, Las Vegas, NV, Nov. 5, 2007.

Comment, "The Complex Climate Change Incentives of China and the United States" by Cass Sunstein, Conference on Cost-Benefit Analysis of Regulations: Lessons Learned, Future Challenges," sponsored by the Searle Center at the Northwestern University School of Law, Oct. 12, 2007.

"Global Warming and Other Hot Topics," Annual Convention, American Constitution Society for Law and Policy, Washington, DC, July 27, 2007.

"Money or Nothing: The Adverse Environmental Consequences of Uncompensated Regulatory Takings," Symposium on Takings: The Uses and Abuses of Eminent Domain and Land Use Regulation," Florida State University, April 21, 2007.

"Federalism after *Raich*: Up in Smoke?" to the student chapter of the Federalist Society at the Temple University School of Law, Philadelphia, PA, February 21, 2007.

"Hot Times in the High Court: Will the Supreme Court Dictate Federal Climate Policy," Philadelphia Lawyers' Chapter, Federalist Society, Philadelphia, PA, February 21, 2007.

"*Massachusetts v. EPA* Preview," American Enterprise Institute, Washington, D.C., November 21, 2006.

"Property Rights and Environmental Protection," Federalist Society Student Chapter, University of Kentucky School of Law, October 18, 2006.

"Jurisdictional Matching in Environmental Federalism," Environmental Federalism: States, NGOs, and Environmental Quality for State Officials, Foundation for Research on

Economics and the Environment and Montana State University, Bozeman, Montana, July 18, 2006.

"The Fable of Federal Regulation," Skeptics Society Annual Conference, California Institute of Technology, Pasadena, CA, June 3, 2006.

"Blogging and Privacy," Annual Computers, Freedom & Privacy Conference, Washington, D.C., May 4, 2006.

"Running on Empty – Energy in the 21st Century," Research ShowCASE, Case Western Reserve University, Cleveland, Ohio, April 5, 2006.

"Institutional Mismatch in Environmental Federalism," *New York University Environmental Law Journal* 2005 Colloquium on State Roles in U.S. Environmental Law and Policy, New York, N.Y. March 25, 2005.

"How to Protect Environmental Protections" Environmental Law Institute, American Constitution Society, and Center for American Progress, Washington, D.C., March 24, 2005.

"Why States Regulate: The Impact of Federal Action on State Environmental Regulatory Choices," Faculty Workshop, George Mason University School of Law, Arlington, Virginia, January 19, 2005

"Speech: Protected and Unprotected," Collegiate Network 25th Anniversary Student Editors Conference, Washington, D.C., December 4, 2004

Discussant, "The Election Is Over . . . Now What?" Third Annual Louis Stokes Leadership Symposium on Social Issues and the Community, Case Western Reserve University, Cleveland, Ohio, November 30, 2004.

"Conservation through Collusion: Antitrust as an Obstacle to Marine Resource Conservation," Annual Meeting, Southern Economic Association, New Orleans, Louisiana, November 21, 2004.

"Wetland Federalism: Why States Regulate," Faculty Workshop, Florida State University School of Law, Tallahassee, Florida, October 19, 2004.

"The Fables of Federal Regulation: Revisiting the Causes and Consequences of Environmental Centralization," Mont Pelerin Society Annual Meeting, Salt Lake City, Utah, August 16, 2004.

"The Common Law and Environmental Protection," Kinship Conservation Institute, Bozeman Montana, June 7, 2004.

"Frank Meyer, Fusionism, and Federalism," *Publius* Symposium on Conservatives and Federalism, Washington, D.C., May 21, 2004

"Conservation without Regulation: Property Rights, Markets & Environmental Protection," Federalist Society Student Chapter, University of Wisconsin School of Law, Madison, Wisconsin, April 14, 2004.

"Judicial Federalism and the Future of Federal Environmental Regulation," Faculty Workshop, University of Pittsburgh School of Law, Pittsburgh, Pennsylvania, February 26, 2004.

"The Fable of Federal Environmental Protection," Case Western Reserve University School of Law, Cleveland, Ohio, February 11, 2004.

"The Constitutional Limits of Federal Environmental Protection," Federalist Society National Lawyers' Convention, Washington, D.C., November 14, 2003.

"The Bush Administration's Environmental Record," Harvard Environmental Law Conference, Harvard Law School, Cambridge, Massachusetts, November 6, 2003.

"Terrorism and the Environmental Right-to-Know," Terrorism, Energy Security, and Civil Liberties - A Seminar for Federal Judges, Foundation for Research on Economics and the Environment, Bozeman, Montana, August 5-10, 2003.

"The Erosion of Environmental Protection?" American Constitution Society National Convention, Washington, D.C., August 1, 2003.

"Constitutional Limitations on Mandatory Labeling of Biotech Foods," Journal of Law & Technology Symposium, University of Richmond School of Law, Richmond, Virginia, March 14, 2003.

"Let 50 Flowers Bloom: Transforming States into Laboratories of Environmental Policy, Congressional staff seminar, Cato Institute, Washington, D.C., December 13, 2002.

"The Precautionary Principle: More Sorry, Less Safe," Congressional staff seminar, Political Economy Research Center, Washington, D.C., September 13, 2002.

"A Free Market Environment or a Regulated One?" (debate with Professor David Driesen), Federalist Society Student Chapter/Environmental Law Society, Syracuse University Law School, February 21, 2002.

"Conservation through Collusion: Antitrust Barriers to Cooperative Fishery Management," Faculty Workshop, University of San Diego School of Law, March 1, 2002.

"Let Fifty Flowers Bloom: Transforming the States into Laboratories of Environmental Policy," American Enterprise Institute, Washington, D.C., September 20, 2001.

"Environmental Federalism," Environmental Economics and Policy Analysis - A Seminar for Law Professors, Foundation for Research on Economics and the Environment, Bozeman, Montana, July 12-14, 2001.

"International Environmental Regulation and the Precautionary Principle," Roundtable on International Trade, International Council on Metals and the Environment, July 17-18, 2001.

Additional fora include the following:

Air & Waste Management Association
Akron Press Club
American Council on Germany
American Iron & Steel Institute
America's Future Foundation
American Society of Civil Engineers
Cement Kiln Recycling Coalition
Cleveland-Marshall School of Law
Close-Up Foundation
Forest Landowners Association
Foundation for Research on Economics & the Environment
George Washington University Federalist Society Student Chapter
Georgetown University Law Center
Heartland Institute
Heritage Foundation
Industrial College of the Armed Forces
Institute for Humane Studies
Leadership Institute
Lewis & Clark College
National Association of Manufacturers
North American Association for Environmental Education
Political Economy Research Center
Progress & Freedom Foundation
Rhodes College
Society of Environmental Journalists
Tennessee-Tombigbee Water Development Authority
University of Chicago Federalist Society Student Chapter
University of Michigan Federalist Society Student Chapter
University of Notre Dame Federalist Society Student Chapter
University of Pennsylvania
University of Texas Federalist Society Student Chapter
University of Virginia Federalist Society Student Chapter
U.S. Conference of Mayors
Vermont Law School
Williams College
World Presidents Organization (WPO)
Yale Political Union, Yale University
Yale School of Forestry & Environmental Studies
Young Presidents Organization (YPO)

MEDIA APPEARANCES

Appearances on national radio and television programs including: PBS *NewsHour with Jim Lehrer*, CNN *World News Tonight*, CNN *Moneyline with Lou Dobbs*, Fox News Channel *O'Reilly Factor*, Fox News Channel *Hannity & Colmes*, ABC *World News Tonight*, National Public Radio *Talk of the Nation*, National Public Radio *Dianne Rehm Show*, National Public Radio *Living on Earth*, CNN, and *Entertainment Tonight*, among others.

Print media citations have included *The New York Times, Washington Post, Wall Street Journal, Los Angeles Times, The Economist, Newseek, National Law Journal, ABA Journal, Legal Times, Newsweek, Philadelphia Inquirer, Christian Science Monitor, U.S. News & World Report*, among others.

ADDITIONAL EMPLOYMENT EXPERIENCE

MERCATUS CENTER, Arlington, VA
Visiting Senior Scholar, August 2005 – July 2006.

POLITICAL ECONOMY RESEARCH CENTER, Bozeman, MT
Lone Mountain Fellow, Summer 2009, Summer 2011
Julian Simon Summer Research Fellow, Summer 2004
Broadbent Summer Research Fellow, Summer 1998

U.S. COURT OF APPEALS, DISTRICT OF COLUMBIA CIRCUIT, Washington, DC
Clerk for The Honorable David B. Sentelle, Circuit Judge, August 2000 – July 2001

KIRKLAND & ELLIS, Washington, DC
Summer Associate, Summer 2000
Law Clerk, Fall 1999 – April 2000
Summer Associate, Summer 1999

COMPETITIVE ENTERPRISE INSTITUTE, Washington, DC
Senior Fellow in Environmental Policy, September 1999 – May 2000
Director of Environmental Studies, July 1995 – May 1999
Associate Director of Environmental Studies, January 1994 – July 1995
Environmental Policy Analyst, June 1991 – January 1994

CATHOLIC UNIVERSITY**,** Washington, DC
Visiting Lecturer, Spring 1999
Course: Environmental Politics and Policy seminar

PROFESSIONAL ACTIVITIES

FOUNDATION FOR RESEARCH ON ECONOMICS & ENVIRONMENT, Bozeman, MT
Board of Trustees, 2008 – Present

ENVIRONMENTAL LAW INSTITUTE, Washington, DC
Environmental Law Reporter and ELI Press Advisory Board, 2007 – Present.

CENTER FOR CONSTITUTIONAL JURISPRUDENCE, Claremont Institute, Claremont, CA
Academic Advisory Board, 2004 – Present.

THE VOLOKH CONSPIRACY, Legal blog, http://volokh.com
Contributor, 2002 – Present.

SMALL BUSINESS LEGAL CENTER, National Federation of Independent Business
Advisory Board, August 2002 – November 2010.

NATIONAL REVIEW ONLINE
Contributing Editor, July 2002 – Present.

CATO SUPREME COURT REVIEW, Cato Institute, Washington, DC
Academic Advisory Board, February 2002 – Present.

AMERICA'S FUTURE FOUNDATION, Washington, DC
Member, Board of Directors, July 2001 – September 2006

INSTITUTE FOR HUMANE STUDIES
Felix Morley Journalism Competition Review Committee, 2001- 2009.

THE FEDERALIST SOCIETY, Washington, DC
Executive Committee, Environmental Law and Property Rights Practice Group, July 2002 -- Present
Vice Chair, Environmental Law and Property Rights Practice Group, 1998 – May 2000

BAR ADMISSIONS

Virginia – October 2000

EDUCATION

GEORGE MASON UNIVERSITY SCHOOL OF LAW, Arlington, Virginia
Juris Doctor, May 2000
Graduated *Summa cum laude*; Class Valedictorian
George Mason Law Review, Articles Editor 1998-1999
Dean's Scholar (legal writing instructor) 1999-2000
Richard S. Murphy Prize (awarded for academic achievement in core courses), 1999
Adrian S. Fisher Award for best student law review article, 1997-98
First Place, First-Year Moot Court Competition, 1997
Senator Leroy S. Bendheim Scholarship, 1996-97.

YALE UNIVERSITY, New Haven, Connecticut
Bachelor of Arts, History, May 1991
Graduated *Magna cum laude*
Distinction in Major
National Merit Scholar